

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI

De'André Je'Rod Cothran 1111360 )  
(full name) (Register No.)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Plaintiff(s). ) Case No. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
v. )  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Dave Dormire ) Defendants are sued in their (check one):  
(Full name) \_\_\_\_\_ Individual Capacity  
Michael Bowensox ) Official Capacity  
Greg Dugger )  Both  
Defendant(s).

COMPLAINT UNDER THE CIVIL RIGHTS ACT OF 42 U.S.C. § 1983

I. Place of present confinement of plaintiff(s): South Central Correctional Center /  
255 W. HWY. 32 / Licking, MO 65542.

II. Parties to this civil action:

Please give your commitment name and any another name(s) you have used while incarcerated.

A. Plaintiff De'André Je'Rod Cothran Register No. 1111360  
Address S.C.C.C. / 255 West Highway 32 / Licking, MO  
65542, Is and was at all times mentioned herein a prisoner of S.C.C.C..

B. Defendant (Please see Attachment/next page.)

Is employed as \_\_\_\_\_

For additional plaintiffs or defendants, provide above information in same format on a separate page.

II

B. Defendants:

- 1) Dave Dormire, head of the Missouri Department of Corrections, Director of the M.D.O.C. He is legally responsible for the overall operation of the Missouri Department of Corrections (Including South Central Correctional Center).
- 2) Michael Bowersox, warden of S.C.C.C. He is legally responsible for the operation of South Central Correctional Center and for the welfare of all the inmates in this prison.
- 3) Lieutenant Richard Bee, Correctional Officer of the M.D.O.C. who, at all times mentioned in this complaint, held the rank of a "C.O. III / Lieutenant" and was assigned to S.C.C.C..
- 4) Greg Dugger, Correctional Officer of the M.D.O.C. who, at all times mentioned in this complaint, held the rank of a "C.O. II / Sergeant" and was assigned to S.C.C.C..

Each defendant is sued individually and in his official capacity. At all times mentioned in this complaint, each defendant acted under the color of state law.

- III. Do your claims involve medical treatment? Yes  No \_\_\_\_\_
- IV. Do you request a jury trial? Yes  No \_\_\_\_\_
- V. Do you request money damages? Yes  No \_\_\_\_\_

State the amount claimed? \$ 200K / 200K (actual/punitive)

- VI. Are the wrongs alleged in your complaint continuing to occur? Yes  No \_\_\_\_\_

VII. Grievance procedures:

- A. Does your institution have an administrative or grievance procedure?

Yes  No \_\_\_\_\_

- B. Have the claims in this case been presented through an administrative or grievance procedure within the institution?

Yes  No \_\_\_\_\_

- C. If a grievance was filed, state the date your claims were presented, how they were presented, and the result of that procedure. (Attach a copy of the final result.)

(Please see Attachment/next page).

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- D. If you have not filed a grievance, state the reasons.

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VIII. Previous civil actions:

- A. Have you begun other cases in state or federal courts dealing with the same facts involved in this case? Yes \_\_\_\_\_ No

- B. Have you begun other cases in state or federal courts relating to the conditions of or treatment while incarcerated? Yes \_\_\_\_\_ No

- C. If your answer is "Yes," to either of the above questions, provide the following information for each case.

- (1) Style: \_\_\_\_\_  
(Plaintiff) \_\_\_\_\_ (Defendant) \_\_\_\_\_
- (2) Date filed: \_\_\_\_\_

Attachment to pg 2 (VII.C.)

VII.C.

I did exhaust a grievance on this issue, pursuant to federal law, CFRs 40. However, I do not have it attached due to officers destroying my copy and "Administration" has been giving me the "run-around" on how to get another copy and I've made reports of the officers conduct and ongoing retaliation which can all be attained in the process of discovery, the "grievance number" is (13-1443), in case they try to claim that no grievance exist.

Please see "2nd Attachment(to pg. 3-IX.A.)"  
<sup>see</sup> to how I grieved on this issue as almost identically related within the actual grievance.

Grievance was ultimately denied with all sought after remedies (though they know my allegations to be true).

- (3) Court where filed: \_\_\_\_\_
- (4) Case Number and citation: \_\_\_\_\_
- (5) Basic claim made: \_\_\_\_\_
- (6) Date of disposition: \_\_\_\_\_
- (7) Disposition: \_\_\_\_\_  
(Pending) (on appeal) (resolved)
- (8) If resolved, state whether for: \_\_\_\_\_  
(Plaintiff or Defendant)

For additional cases, provide the above information in the same format on a separate page.

IX. Statement of claim:

- A. State here as briefly as possible the facts of your claim. Describe how each named defendant is involved. Include the names of other persons involved, dates and places. Describe specifically the injuries incurred. Do not give legal arguments or cite cases or statutes. You may do that in Item "B" below. If you allege related claims, number and set forth each claim in a separate paragraph. Use as much space as you need to state the facts. Attach extra sheets, if necessary. Unrelated separate claims should be raised in a separate civil action.

On 7/31/14, C.O. II Greg Dugger retaliated against me for "Hunger Striking" by attempting to place me in a "suicide precaution" cell (naked and w/out any property). I asked for a C.O. II's presence and a nurse, I was told that the C.O. II stated "He wanted nothing to do with it (what Dugger was doing to me)". C.O. II Dugger then began a series of assault on me by use (excessive & unreasonable) of "Chemical Agents" (a.c. gas from a "MK46" and a 12.oz "Riot Can"). I was also fasting during the Sacred Month of Ramadhan at the time. C.O. II R. Bee allowed C.O. II G. Dugger to conduct this malicious use of force which violated my 1st, 8th, 14th Amendment of the U.S.C. (Please see Attachment/next page)

- B. State briefly your legal theory or cite appropriate authority:

Howard v. Burnette (commensable...actual injury...even if not of great significance). Estate of Davis v. Delo (Failure to protect). Treats v. Morgan (tempered but unreasonable - illegitimate purpose). Fauly v. Charrier. Lawrence v. Brownson (clear...that conduct was unlawful in the situation he confronted) (questionable...not noncompliant). Whitley v. Albers. Hudson v. McMillian. Stenzel v. Ellis (C.O.'s don't have a "blank check" to use force whenever a prisoner is being difficult).

IX.

(First Attachment, please also see 2nd Attachment)

A. Statement of claim continued:

I was subjected to "Retaliatory Conduct", "Deliberate Indifference" (to medical needs), "Cruel and Unusual Punishment", deprived of "Due Process", and violation of 1st Amended right to practise religion and demonstrate peaceful protest. Lieutenant Richard Bee, failed to protect me from C.O. II Dugger's sadistic conduct, while the Warden (Michael Bowersox) is and was responsible for my welfare and overall operation of S.C.C.C. And Director (Dave Domine) is responsible for the overall operation of all institutions within the M.D.O.C. (Including S.C.C.C.).

Injuries I incurred include discoloration of skin, hair and scalp damage, failing eye-vision, and mental and emotional distress. Burning from the "Chemical Agent" lasted days and remained in my hair for months, given no adequate solution to tamper the effects of the O.C. Gas. I was subjected to much "pain and suffering"

Statement of Facts & Claims

2nd (Attachment to pg. 3 - IX. A.)

On the day of July 31, 2013, I, DeAndré Cothran, was being escorted from Medical Housing (TCU) to an Administrative Segregation Unit. I was in the Medical Unit overnight due to the correctional officers finding me "unresponsive" the prior day (7/30/13), after eleven days of not eating (I had been fasting for the month of Ramadhan while also demonstrating a peaceful "Hunger Strike" motivated by injustices that I was being subjected to).

As I was being escorted into the Ad'-Seg' Unit, C.O. II Greg Dugger placed me in a "strip-out" cage. Right before Dugger got me to the cage, I got weak and light-headed and asked to be seen by a nurse and was denied by Dugger. Once inside the cage, I had to sit lest I was going to faint. Dugger then told me, "Get up, take off all of your clothes and toss them out, then put on this "smock" (a gown worn on "suicide precaution status"), you're going on "suicide-watch". He (Dugger) stated that I was going to cell 115 (1A-115), a suicide-cell. I asked why he was trying to put me on "suicide-watch" after "Mental Health" told him yesterday that he couldn't put me on "suicide-watch" simply for "Hunger-Striking" (He was told this by Mental Health the prior day - 7/30/13 - when he wanted to put me on "suicide-watch" with no clothes on property.).

I also told C.O. II Dugger that I was "not" suicidal and that 'I know about your reputation of putting inmates on "suicide-watch" whenever you disagree with their conduct'; I then asked to speak with the active Lieutenant (C.O. III) and also (again) to be seen by a nurse. Dugger told me that I would speak to or be seen by noone until after I was placed in the "suicide-cell". I asked C.O. II Dugger not to do that to me, I stated, "Come on, don't do this to me, you know I'm not suicidal, besides, I have to pray five times a day, you know I'm a Muslim, I can't offer my prayers with a smock on". Dugger replied, "That's not my problem.". I then stated, "you know this aint right, I need to speak with a Lieutenant.". Dugger then left the area and come back with

a "MK-46", (the same chemical-weapon illegally used in the "Lawrence v. Bowensox" case) and stated, "The Lieutenant told me to spray you, Cothran.". I said, "I don't believe that, I know the policy & procedures, he has to speak to me before you "spray" me.". He (Dugger) replied, "Lt. Bee said he's not wanting anything to do with it and that he's not coming in here 'til it's over with, it's just me and you.". I stayed calm and kept asking for a C.O. III (Lt.) and a nurse, believing I would not be sprayed without first seeing a Lt., Captain, and

without a medical clearance, and that's C.O. II Dugger began assaulting me with the MK-46 (fire-extinguisher-like canister of chemical-agent). Dugger sprayed me with the "MK-46" twice, leaving me drenched and standing in a huge puddle of the agent, I was stunned almost out of my mind, I could think to do nothing but ask for the Lt. and a nurse, I just knew that Dugger was trying to kill me, he kept denying me a Lt. and nurse, he then assaulted me with a burst from a 12oz. riot-can "OC Gas"(mace). He sprayed me in my face, head, and neck area all three times. Out of desperation, I began reasoning again. I told Dugger that I submit, just please wipe my eyes for me.

After I cuffed-up and was placed in the "suicide-cell" (drenched in mace), I was written-up and served a "CDV" (conduct violation) for "disobeying an order"; to comply with a "strip-search", but this was a weak attempt by Dugger to justify his wronging me. Everything is on a cam-conder, his only intention was evidently to place me in a "suicide-cell" on "suicide-watch". I was seen by "Mental Health" and taken off of "suicide-watch" the same day and on my way to the shower, I asked C.O. II Dugger why he did what he did to me? He replied, "you're on "Hunger-Strike", so you must be suicidal".

Please note that this entire assault was carried out on me while I was locked and secured in a  $2\frac{1}{2}' \times 2\frac{1}{2}'$  cage inside of a secured area.

I suffered for days and water only made the pain worse. I also suffer skin discoloration and my vision has worsened. I further suffer a great deal emotionally and mentally.

I was subjected to Cruel & Unusual Punishment, Retaliatory Conduct, Due Process was denied, and my First Amendment rights to peacefully protest was violated as well as my right to practise religion (by causing me to inhale chemical while he knew I was observing my fast of Ramadhan - the sacred Islamic month).

I have grieved on this issue to no avail.

- X. Relief: State briefly exactly what you want the court to do for you. Make no legal arguments.  
End use of "Chemical Agents" in Prison (except for cases of emergency safety and security concerns) to minimize abuse for injunction. And to order that I be rewarded monetary relief sought after from Defendants who violated my constitutional rights, and my "pain and suffering". I'm also seeking punitive damages.
- XI. Counsel:

A. If someone other than a lawyer is assisting you in preparing this case, state the person's name. \_\_\_\_\_

B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action? Yes  No \_\_\_\_\_

If your answer is "Yes," state the names(s) and address(es) of each lawyer contacted.

Please see Attachments/Exhibits to "Motion for Appointment of Counsel" as well as Attachment/next page.

C. Have you previously had a lawyer representing you in a civil action in this court?

Yes \_\_\_\_\_ No

If your answer is "Yes," state the name and address of the lawyer.

I declare under penalty of perjury that the foregoing is true and correct.

Executed (signed) this 1<sup>st</sup> day of June 2014.

De'André G. Cethran  
Signature(s) of Plaintiff(s)

(Attachment to page 4)

XI.

B. Attorneys:

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